

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RODNEY JOBE	§	
v.	§	CIVIL ACTION NO. 6:13cv726
NORRIS HICKS, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Rodney Jobe, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Jobe filed a motion asking that his lawsuit be dismissed, and the Magistrate Judge issued a Report recommending that this motion be granted. Jobe did not file objections to this Report, although he did write a letter asking why he was still being charged a filing fee for his lawsuit. The initial partial filing fee and collection order (docket no. 6) advised Jobe that the granting of his motion for leave to proceed *in forma pauperis* “does not relieve the plaintiff of the responsibility of paying the full filing fee or any partial fees connected therewith, unless and until this Court directs otherwise, regardless of the disposition of the case.” The Fifth Circuit has held that “no relief from an order directing payment of the filing fee should be granted for a voluntary dismissal.” *Hatchet v. Nettles*, 201 F.3d 651, 654 (5th Cir. 2000). Hence, the district court has no discretion to waive payment of the filing fee simply because Jobe moved to dismiss his lawsuit.

Because Jobe did not file objections to the Magistrate Judge’s Report recommending dismissal of the case, he is barred from *de novo* review by the district judge of those findings,

conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 8) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for voluntary dismissal (docket no. 7) is GRANTED and the above-styled civil action be and hereby is DISMISSED without prejudice on the motion of the Plaintiff. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

**So ORDERED and SIGNED this 15th day of December, 2014.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**